

15

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

Case: 2:11-cr-20066
Judge: Battani, Marianne O
MJ: Majzoub, Mona K
Filed: 02-09-2011 At 03:48 PM
SEALED MATTER (LG)

VIOLATIONS: 18 U.S.C. §§ 2, 371,
876, 1503, 1513, 1622

- D-1 JEFF GARVIN SMITH
a/k/a "Fat Dog"
- D-2 PAUL ANTHONY DARRAH
a/k/a "Pauli"
- D-3 MICHAEL WILLIAM MASTROMATTEO
a/k/a "Iron Mike"
- D-4 VERNON NELSON RICH
a/k/a "Vern"
- D-5 CARY DALE VANDIVER
a/k/a "Gun Control"
- D-6 VICTOR CARLOS CASTANO
- D-7 EDWARD ALLEN TAYLOR
a/k/a "Big Ed"
- D-8 MICHAEL KENNETH RICH
a/k/a "Tatu"
- D-9 WILLIAM SCOTT LONSBY
a/k/a "Buck, Buckwheat"
- D-10 KEITH WILLIAM MCFADDEN
a/k/a "Gadget"
- D-11 FNU LNU
a/k/a "Jesus"

Defendants.

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

Conspiracy to Suborn Perjury and Obstruct Justice
18 U.S.C. § 371

- D-1 JEFF GARVIN SMITH
a/k/a "Fat Dog"
D-2 PAUL ANTHONY DARRAH
a/k/a "Paulie"
D-3 MICHAEL WILLIAM MASTROMATTEO
a/k/a "Iron Mike"
D-5 CARY DALE VANDIVER
a/k/a "Gun Control"
D-6 VICTOR CARLOS CASTANO
D-8 MICHAEL KENNETH RICH
a/k/a "Tatu"
D-11 FNU LNU
a/k/a "Jesus"

A. GENERAL ALLEGATIONS.

At all times material to this Indictment:

1. VICTOR CARLOS CASTANO was arrested on June 17, 2004, in the Eastern District of Michigan. At the time of his arrest, a loaded Smith & Wesson .44 caliber revolver was found inside a console in the front passenger compartment of the Dodge pick-up truck VICTOR CARLOS CASTANO was driving.

2. VICTOR CARLOS CASTANO was charged on June 17, 2005 in a three count federal indictment with offenses including a violation of 18 U.S.C. §922(g)(1), felon in possession of a firearm, and a violation of 18 U.S.C. §924(c), carrying a firearm

during drug trafficking crime, based on the seizure of the loaded Smith & Wesson .44 caliber revolver found inside the pick-up truck VICTOR CARLOS CASTANO was driving.

3. Keith McFadden and Stella Herron testified under oath as defense witnesses, and Vernon Rich and William Lonsby testified as prosecution witnesses in the criminal jury trial, *United States of America v. Victor Castano*, No. 05-CR-80554 on February 22, 2006.

4. VICTOR CARLOS CASTANO was convicted of being a felon in possession of a firearm, and of carrying a firearm during a drug trafficking crime after a trial by jury which commenced in the Eastern District of Michigan on February 21, 2006, and concluded on February 23, 2006.

5. On May 16, 2006, VICTOR CARLOS CASTANO was sentenced to a term of incarceration.

6. On May 23, 2006, VICTOR CARLOS CASTANO filed a notice of appeal.

7. On August 23, 2006, VICTOR CARLOS CASTANO was delivered to the Federal Correctional Institute in Milan, Michigan to serve his prison sentence.

8. On October 7, 2008, VICTOR CARLOS CASTANO's conviction for using and carrying a firearm during and in relation to a drug trafficking crime, 18 United States Code §924(c), was reversed by the Court of Appeals, and his conviction for felon in possession of a firearm, 18 United States Code, §922(g) was affirmed.

9. On March 12, 2009, VICTOR CARLOS CASTANO was re-sentenced on the charge of being a felon in possession of a firearm.

B. THE CONSPIRACY

10. That from at least in or about June, 2005, through in or about March 2009, in the Eastern District of Michigan, Southern Division, defendants JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," did knowingly, unlawfully and willfully conspire, confederate and agree with other persons known and unknown to the grand jury, to commit offenses against the United States, that is, to suborn the perjurious testimony of Keith McFadden, and Stella Herron at the February 2006 federal criminal trial of VICTOR CARLOS CASTANO in the Eastern District of Michigan and to obstruct justice by corruptly and by threats, endeavoring to influence, obstruct, impede the due administration of justice.

C. MANNER, MEANS AND METHODS OF THE CONSPIRACY.

11. The manner, means and methods employed by the defendants, JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," and other persons known and unknown to the Grand Jury, to effect the objects of the conspiracy were as follows:

12. It was a part of the conspiracy that JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," defendants herein, and other persons known and unknown to the Grand Jury, did agree to corruptly solicit, encourage, and coerce Keith McFadden to testify falsely at VICTOR CARLOS CASTANO's criminal jury trial.

13. It was further a part of the conspiracy that JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," defendants herein, and other persons known and unknown to the Grand Jury, did agree to corruptly solicit, encourage, coerce, and threaten Stella Herron to testify falsely at VICTOR CARLOS CASTANO's criminal jury trial.

14. It was further part of the conspiracy for the defendants, JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," and other persons known and unknown to the Grand Jury, to meet with Keith McFadden and Stella Herron, to fabricate, manufacture, and compose the contents of the perjured testimony at VICTOR CARLOS CASTANO's criminal jury trial, all to dispel, contradict, and rebut the evidence of VICTOR CARLOS CASTANO's knowledge and possession of the loaded Smith & Wesson .44 caliber firearm.

15. It was further part of the conspiracy for VICTOR CARLOS CASTANO to allow Keith McFadden and Stella Herron to reside within VICTOR CARLOS CASTANO's residence during his criminal jury trial.

16. It was further part of the conspiracy for JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," to obstruct justice through conduct, including obscuring the truth and misleading the court and the jury to ensure that VICTOR CARLOS CASTANO was acquitted of criminal charges.

D. OVERT ACTS.

17. In furtherance of the conspiracy, and to effect the object thereof, the defendants committed and caused to be committed the following overt acts, among others, in the Eastern District of Michigan and elsewhere:

18. JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," known and unknown to the Grand Jury, met with Keith McFadden and Stella Herron between June 17, 2005 and January 23, 2006;

19. JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," and others,

known and unknown to the Grand Jury, solicited, encouraged, and coerced Keith McFadden and solicited, encouraged, coerced, and threatened Stella Herron to testify falsely at VICTOR CARLOS CASTANO's criminal jury trial that, in particular, the loaded Smith & Wesson .44 caliber firearm found in the vehicle operated by VICTOR CARLOS CASTANO on June 17, 2005 belonged to Stella Herron, that Stella Herron left the firearm in the vehicle on June 16, 2005, and that VICTOR CARLOS CASTANO did not know the firearm was in the vehicle when the firearm was seized on June 17, 2005.

20. Before and after the February 2006 trial, VICTOR CARLOS CASTANO allowed Keith McFadden and Stella Herron to reside with VICTOR CARLOS CASTANO at an address in the Eastern District of Michigan.

21. Prior to the February 2006 trial, and during the time Keith McFadden and Stella Herron resided at the VICTOR CARLOS CASTANO's residence, MICHAEL WILLIAM MASTROMATTEO and VICTOR CARLOS CASTANO assisted and coached Keith McFadden and Stella Herron in formulating, contriving, and concocting their false trial testimony.

22. Prior to the February 23, 2006 jury verdict, the VICTOR CARLOS CASTANO agreed to give Keith McFadden five pounds of marijuana in exchange for his false testimony.

23. In February 2006, Keith McFadden received five pounds of marijuana from the VICTOR CARLOS CASTANO.

24. In March 2009, after VICTOR CARLOS CASTANO's conviction pursuant

to 28 U.S.C. § 924(c) was overturned on appeal, Keith McFadden was contacted and advised of the need for additional testimony by McFadden at CASTANO's re-trial.

25. Between approximately November 2007 and December 11, 2007, while VICTOR CARLOS CASTANO was serving his federal prison sentence at the Federal Correctional Institution in Milan, Michigan, VICTOR CARLOS CASTANO drafted and mailed a letter addressed to Vernon Nelson Rich, threatening physical assault "with a ball bat or a bullet" to cause bodily injury to Vernon Nelson Rich, with the intent to retaliate against Vernon Nelson Rich for the attendance of and testimony given by Vernon Nelson Rich, at VICTOR CARLOS CASTANO's criminal trial.

All in violation of Title 18, United States Code, sections 371, 1503, 1622.

COUNT TWO

Subornation of Perjury, Aiding and Abetting
18 U.S.C. §§ 2,1622

D-1 JEFF GARVIN SMITH
a/k/a "Fat Dog"
D-2 PAUL ANTHONY DARRAH
a/k/a "Paulie"
D-3 MICHAEL WILLIAM MASTROMATTEO
a/k/a "Iron Mike"
D-5 CARY DALE VANDIVER
a/k/a "Gun Control"
D-6 VICTOR CARLOS CASTANO
D-8 MICHAEL KENNETH RICH
a/k/a "Tatu"
D-11 FNU LNU
a/k/a "Jesus"

1. Between approximately June 2005 and February 2006, in the Eastern District of Michigan, and elsewhere, the defendant, VICTOR CARLOS CASTANO, did wilfully suborn and procure Keith McFadden to commit perjury by testifying falsely under oath to a material matter in a case entitled *United States of America v. Victor Castano*, No. 05-CR-80554, in the United States District Court for the Eastern District of Michigan.

2. It was material to the said case described in paragraph one to determine whether VICTOR CARLOS CASTANO knowingly possessed a firearm on or about June 17, 2004, in the Eastern District of Michigan.

3. From at least June 2005 until approximately March 2009, JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," willfully suborned and procured Keith McFadden to testify falsely in the proceedings described in paragraph one that:

(a) the loaded Smith & Wesson .44 caliber firearm seized from the Dodge pick-up truck the defendant, VICTOR CARLOS CASTANO was driving on June 17, 2004, belonged to Stella Herron;

(b) that in the day or so prior to VICTOR CARLOS CASTANO's June 17, 2004 arrest, Keith McFadden and Stella Herron were in possession of the Dodge pick-up truck, and used the truck;

(c) that while in possession of said Dodge pick-up truck, Stella Herron

placed her loaded Smith & Wesson .44 caliber firearm in the center console of the vehicle, and did not remove the firearm from inside the vehicle;

(d) that Keith McFadden gave the Dodge pick-up truck to VICTOR CARLOS CASTANO on or about June 17, 2004 and that, at that time, the firearm was left inside the center console of the passenger compartment of the vehicle, forgotten by both Stella Herron and Keith McFadden; and

(e) that VICTOR CARLOS CASTANO did not know the firearm was inside said Dodge pick-up truck.

4. On the February 22, 2006, the said Keith McFadden, after being duly sworn by the Court at the trial in the case entitled *United States of America v. Victor Castano*, No. 05-CR-80554, Keith McFadden falsely testified under oath in the proceedings that:

- (a) the firearm "belongs to my common law wife...[Stella Herron]," and, that "it's our gun";
- (b) that Keith McFadden borrowed the vehicle VICTOR CARLOS CASTANO was arrested in to drive Stella Herron to strip clubs while Stella Herron looked for a job;
- (c) that Stella Herron placed the firearm in the console of the truck;
- (d) that Keith McFadden met with VICTOR CARLOS CASTANO the next morning and gave him the car, and that Stella Herron "forgot the gun in the console"; and
- (e) that Keith McFadden never loaned the gun to Mr. Castano.

5. The testimony of Keith McFadden as aforesaid was false and perjurious as both Keith McFadden and the defendants well knew;

All in violation of 18 U.S.C. §1622, 1623.

COUNT THREE

Obstruction of Justice

18 U.S.C. §1503 (a)

D-1 JEFF GARVIN SMITH
a/k/a "Fat Dog"
D-2 PAUL ANTHONY DARRAH
a/k/a "Paulie"
D-3 MICHAEL WILLIAM MASTROMATTEO
a/k/a "Iron Mike"
D-5 CARY DALE VANDIVER
a/k/a "Gun Control"
D-6 VICTOR CARLOS CASTANO
D-8 MICHAEL KENNETH RICH
a/k/a "Tatu"
D-11 FNU LNU
a/k/a "Jesus"

From at least in or about June 2005, through in or about February 2006, in the Eastern District of Michigan, the defendants, JEFF GARVIN SMITH, PAUL ANTHONY DARRAH, MICHAEL WILLIAM MASTROMATTEO, CARY DALE VANDIVER, VICTOR CARLOS CASTANO, MICHAEL KENNETH RICH, and FNU LNU, a/k/a "Jesus," did corruptly influence, obstruct and impede and endeavor to influence, obstruct and impede the due administration of justice in *United States v. Victor Castano*, No. 05-CR-80554 in the U.S. District Court for the Eastern District of

Michigan, by soliciting, encouraging and procuring the false testimony of Keith McFadden and by threatening, soliciting, encouraging and procuring the false testimony of Stella Herron.

All in violation of Title 18, United States Code, Section 1503.

COUNT FOUR

Obstruction of Justice by Threats to a Witness
18 U.S.C. §1513(b)(1)

D-6 VICTOR CARLOS CASTANO

Between approximately November 2007 and December 11, 2007, in the Eastern District of Michigan, the defendant, VICTOR CARLOS CASTANO, did knowingly threaten to engage in conduct, to wit: physical assault "with a ball bat or a bullet" to cause bodily injury to Vernon Nelson Rich, with the intent to retaliate against Vernon Nelson Rich for the attendance of and testimony given by Vernon Nelson Rich, a witness in an official proceeding, *United States v. Victor Castano*, No. 05-CR-80554 in the U.S. District Court for the Eastern District of Michigan.

All in violation of Title 18, United States Code, Section 1513(b)(1).

COUNT FIVE

Mailing Threatening Communications
18 U.S.C. §876(c)

D-6 VICTOR CARLOS CASTANO

Between approximately November 2007 and December 11, 2007, and elsewhere,

the Eastern District of Michigan, defendant VICTOR CARLOS CASTANO, did knowingly and willfully deposit in an authorized depository for mail matter, to be sent and delivered by the Postal Service a communication, undated and addressed to "Vern, 2424 Little Street, Port Huron, Michigan, 48060," and containing a threat to injure "Vern."

All in violation of Title 18, United States Code, Section 876(c).

COUNT SIX

Conspiracy to Distribute, and to Possess With Intent to Distribute Marijuana
21 U.S.C. §§ 846, 841(a)(1)

D-4 VERNON NELSON RICH
a/k/a "Vern"
D-6 VICTOR CARLOS CASTANO
D-7 EDWARD ALLEN TAYLOR
a/k/a "Big Ed"
D-8 MICHAEL KENNETH RICH
a/k/a "Tatu"
D-9 WILLIAM SCOTT LONSBY
a/k/a "Buck, Buckwheat"
D-10 KEITH WILLIAM McFADDEN
a/k/a "Gadget"

From approximately July 2003 through February 2006, in the Eastern District of Michigan, and elsewhere, defendants did knowingly, intentionally and unlawfully combine, conspire, confederate and agree with each other, and with other persons whose names are both known and unknown to the Grand Jury, to commit crimes against the United States, that is, to

distribute, and to possess with intent to distribute, more than 100 kilograms of marijuana, all in violation of Title 21, United States Code, Sections 841(a)(1) and 846.

THIS IS A TRUE BILL.

s/ Foreperson

BARBARA L. McQUADE
United States Attorney

s/ Saima Mohsin
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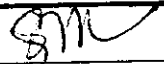
Dated: February 9, 2011

United States District Court
Eastern District of Michigan

Criminal Case Cov

Case: 2:11-cr-20066
Judge: Battani, Marianne O
MJ: Majzoub, Mona K
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SEALED MATTER (LG)

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to com

Companion Case Information	Companion Case Number: 05-80554
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :	Judge Assigned: LAWRENCE P. ZATKOFF
[X] Yes [] No	AUSA's Initials: 

Case Title: USA v. JEFF GARVIN SMITH, et al.

County where offense occurred : Wayne

Check One: ☒ Felony ☐ Misdemeanor ☐ Petty

☒ Indictment / ☐ Information --- no prior complaint.
☐ Indictment / ☐ Information --- based upon prior complaints []
☐ Superseding Indictment -- based upon LCrR 57.10 (d) [Complete Superseding section below].

Superseding Case Information:

Superseding to Case No: _____ Judge: _____


- ☐ Original case was terminated; no additional charges or defendants.
☐ Corrects errors; no additional charges or defendants.
☐ Involves, for plea purposes, different charges or adds counts.
☐ Embraces same subject matter but adds the additional defendants or charges below:

Defendant name

Charges

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

February 9, 2011
Date


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¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.